EXECUTIVE SUMMARY

Conference on

Searching for a new political dispensation for the European Union

2-3 June 2007
Palazzo Mundell, Santa Colomba (Siena)

Introduction

The Luxembourg Institute for European and International Studies (LIEIS) convened a conference on "Searching for a new political dispensation for the European Union" on 2 and 3 June 2007 at the Palazzo Mundell in Santa Colomba, near Siena. This meeting was the second in a series of conferences as part of a long-term project which has been jointly conceived by Robert Mundell, Professor of Economics at Columbia University and 1999 Nobel Laureate in Economics, and Armand Clesse, Director of the LIEIS. The first in this series of seminars was held in Schengen on 2 and 3 December 2006. Possible future conferences may take place in Prague in December 2007 and in July 2008 in Santa Colomba.

The 2006 Schengen conference had addressed three fundamental questions. First, what are the key challenges facing the EU? Second, what are the finalities of the integration and enlargement process? Third, what might be the best means of achieving those goals? Following the wide-ranging debates, both the organisers and the participants agreed to focus the reflections and discussions. Thus, the objective of the second meeting was to assess a number of different models of integration for the EU and to draw up a list of concrete suggestions for policy-makers across the Union. In the course of six sessions, about 20 participants from Western and Central Europe as well as the USA and Canada debated four

closely related topics: key challenges and future scenarios for the EU; the case for maintaining the *status quo*; the case for more integration; the case for less integration (cf. conference programme and list of participants in Appendix). [1]

The ambition of this meeting was three-fold:

First, to think beyond the dominant paradigms by revisiting the question of challenges and by analysing different future scenarios of the EU in 2057.

Second, to have a substantive exchange of views and to produce new ideas on how to devise a political 'dispensation' for the EU by questioning the logic of the current strategies and raising fundamental issues concerning the Union's constitutional and institutional configuration, as well as its policy-making process.

Third, to outline alternative models for the EU and to devise a number of policy proposals that will provide the basis for further reflections with view to a major initiative which could be submitted to policy- and decision-makers across the EU in 2008 and perhaps serve as an alternative to the forthcoming IGC and the new treaty.

I. Key challenges and possible future scenarios

The discussion on the key challenges and future scenarios was framed by a series of conceptual questions. Do modest endeavours and ambitions provide a sufficient answer to current and future challenges? Are the EU model and the Community methods, which go back to the 1950s and 1960s, still operationally, institutionally and politically valid and viable? What about the growing polarities within and between the Union's centre and periphery? Is there resignation about the consolidation of the current project? What would a stronger and more ambitious project look like?

A. Key challenges facing the EU of 27

The debate on the key challenges facing the EU of 27 revolved around three categories. First, fundamental challenges in relation to values, goals and the Union's strategic direction. Second, challenges related to the EU's constitutional and institutional arrangements. Third, challenges concerning core areas of EU policy-making.

The first category includes the following challenges: the freedom and security of the individual; the growing presence of Muslims in Europe; the demographic evolution, above all ageing and the changing composition of Europe's populations; the strategic challenge of dealing with potential threats from the Middle East and the Far East and maintaining the Euro-Atlantic framework of security (military, strategic, energy).

The second category of challenges concerns the division of constitutional powers between the EU and its member-states and the institutions that can govern the Union as a whole. This includes, first, the distinction between the European societies as national constituencies and the EU as a supranational entity; second, the nature of EU treaties and their enforcement by

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[1] The discussions were coordinated by A. Clesse

the European Court of Justice (ECJ) and the European Commission, the 'Guardian of the Treaties'; third, the governmental and governance structures within the Union and the question of whether the same institutional set-up is appropriate for 27 member-states; fourth, the challenge of providing leadership based on a hybrid political system and the question of whether a rotating Presidency is sufficient to address this problem.

The third category encompasses the following policy challenges: first, on defence, security and foreign policy, how to devise an effective defence and security policy that includes the EU's two nuclear powers, France and the UK? How to agree on a substantive common foreign policy that overcomes the various divides (Anglo-Saxon, German-French, 'old' and 'new' Europe, centre and periphery)? Second, on economic policy, according to which principle and criteria should the EU distribute income between member-states (especially in the wake of enlargement to 27)? Should the EU adopt a common macroeconomic policy or should such a policy be limited to the countries of the Euro-zone that already have a single monetary policy? What can the EU (rather than the individual member-states) do to enhance economic growth and improve the operation of the common market, in the context of the growing discrepancy of growth rates in Europe and parts of the developing world (China, India, etc.)? Third, on social security and welfare, could and should the EU make strategic decisions in relation to the various social models or is this a national prerogative? Fourth, on energy and the environment, what can the EU do to ensure energy security in the face of energy deficiency? How best to deal with environmental issues (seas, wildlife, pollution, etc.) linked to global warming?

B. Fundamental structural problems confronting the Union

The discussions on key challenges gave rise to reflections on a number of fundamental structural problems confronting the EU and potentially threatening its political future. Internally, the Union could face an intra-European social civil war. This might be so because the migration from 'poor Europe' to 'rich Europe' is generating much more social tension than the member-states acknowledge: at the bottom of society, competition for work, education, housing and other socio-economic advantages is ferocious, even if most migrants are white Europeans and as such more 'politically correct and acceptable' than extra-European immigrants. Not only in the UK but also in Germany and France, Europe is seeing the emergence of a new underclass or *Unterschicht*, that is to say, pockets of poverty and deprivation that are cut off from the rest of society, with little or no prospect of improving their lot. Moreover, there are growing differences and polarities both within and across EU countries, raising the spectre of nationalism and separatism which the EU had so successfully reined in during the decades following the Second World War. For instance, in France, the accession of Turkey may be seen as another Algeria. Similarly, in countries that suffer a substantial outflow of skilled labour, nationalism is developing, e.g. in Poland and the Baltic States.

Without a minimum of societal cohesion and social peace, the very foundations of democracy in Europe are threatened. This is exacerbated by the increasing gap between citizens and the EU and the even greater gap between the citizenry and national political classes. Unfortunately, the European Parliament (EP) has served as an excuse for national political classes to distance themselves from the European project. What is worse, the EP itself has

failed because it has not shaped opinion or policy on a fundamental level. On the contrary, the EP has contributed to the *malaise* over the European integration and enlargement process as a result of its perceived lack of transparency and accountability. Coupled with the popular perception of the inexorable delegation of power to the EU, the threat confronting the Union is that the entire European political edifice is seen as a pseudo-democracy.

Another major internal problem that the EU needs to address is a growing imbalance of power between countries, especially the centre and the periphery. The sheer velocity of the transition process, coupled with the hasty and ill-prepared enlargement process, has created a degree of heterogeneity and divergence which has unleashed powerful centrifugal forces. In the absence of a reconfiguration of competencies and a re-orientation of the EU budget, it is hard to see how the Union can preserve the existing levels of cohesion and solidarity among the 15 member-states, let alone achieve similar levels in the 12 new members.

These points raised the question of the EU's weight in the global economy and led to a debate on Europe's main external problems. Even though the major European economies are all growing more strongly than in the recent past, it was argued by some participants that the EU is caught between a stone and a hard place: not only does it struggle to remain innovative and thus to retain its technological advantage over developing countries, but economic latecomers no longer have to invent new technologies – they simply buy and copy them. Indeed, in terms of the emerging economic structure, the number of PhDs per head of population and other similar statistics are good measures of future economic success. This is why education and R&D must have absolute priority and why the vision of the Lisbon Agenda is both unrealistic and ridiculous: as Europe becomes third-rate (behind Asia and the USA), the attractiveness of the EU will diminish. So if Europe continues to grow at 2-2.5% and Asia at 7% *per annum*, then both Europe and the USA will be economically squeezed, in the sense that their relative share in the global economy will decline and as a result so will their political influence.

However, there was disagreement on this point. Some participants contended that political power is not a linear correlation of economic weight. Moreover, the loss of US leadership has more to do with the foreign policy disaster in Iraq than with the economic rise of China and other parts of Asia. The change in fortunes of the West seems to be the result of a certain cultural decline. In conjunction with a growing dynamism at the borders of the EU, the level of heterogeneity will make agreement on common values close to impossible, especially if one-third of the European populace will be Muslim.

In turn, this discussion raised the issue of the EU's geopolitical and strategic direction. Some argued that the Union's failed common foreign and security policy (e.g. currently in Afghanistan) makes relations with NATO and the USA even more critical, in terms of capability and thus credibility. Given current trends, in particular the tensions between some European allies and the US, the question is whether the Euro-Atlantic security community will still exist in 50 years. Others contended that NATO expansion to the East has been counter-productive because it has failed to preserve the transatlantic alliance as a politically effective and militarily decisive actor, whilst also alienating key countries like Russia. Indeed, the EU must not fall into the same trap but instead undertake renewed efforts to forge genuinely strategic relations with non-EU countries such as India, China and above all Russia.

C. <u>The EU in 2057 – different scenarios</u>

The conference then turned to possible scenarios for the EU in about fifty years' time. The point of these reflections was not to forecast the future but instead to sketch the contours of various political configurations and to draw out the implications for policy planning. In economics, this exercise is called dynamic programming: based on a number of different scenarios, it is possible to formulate feasible and desirable propositions, to identify driving forces or factors and to assess possible responses from institutional actors.

However, the discussions did not produce descriptions of concrete scenarios. Rather, a number of possible evolutions were debated. First, the participants disagreed about whether Europe will see a return to the nation-state or whether the supra-national dimension will grow in importance. Some suggested that the current backlash against Brussels could produce a significant trend towards renationalising competencies and policies. This tendency may include the abrogation of the Euro and the re-creation of national currencies. Others thought that the Euro-zone will survive until 2057 and by then include the overwhelming majority of EU member-states, because the logic of the common market makes further monetary integration and enlargement increasingly beneficial.

Yet others argued that the EU, in particular its economic dimension, will tend to become progressively more flexible, with some countries choosing enhanced cooperation and integration, whilst others opting out and holding on to national powers. This could lead both to a hard core (along the lines of the book by the current Belgian Prime Minister Guy Verhofstadt, *United States of Europe*) and a wider union that no longer remains exclusively European but extends to the Middle East and North Africa (though excluding both the USA and Russia, as both view national sovereignty as sacrosanct).

Second, the participants discussed whether over the next fifty years or so the EU would become more open to the world or whether it may retreat. Some believed that openness to migration, economic development and foreign cultures is indispensable to the process of deepening and widening. The Enlightenment legacy has been betrayed and the open society is at risk – Europe's future will not simply determine the spread of liberty on the old continent but also the fate of democracy abroad. Others contended that openness might further dilute the political *acquis* and thus threaten the very foundations upon which the Union is built.

This debate raised the question of legitimacy – a third factor that will shape the EU's evolution. It was noted that during the Middle Ages, Europe was characterised by a series of overlapping authorities such as the papacy, the holy roman empire, monarchies, etc. This system was buried by the Treaty of Westphalia in 1648 which established the primacy of the nation-state. By analogy, the EU could also cease to exist if a new powerful ideology emerges and gives rise to new form of governance. In the absence of such an event, the EU will continue to exist because nation-states are internally and externally limited and require a supplement of legitimacy, both local and supranational.

Fourth, it was remarked that there are some fundamental questions over the direction of rapid enlargement: will Russia, the Ukraine and Belarus be granted the status of candidate countries? Could further enlargement even produce some form of union with North-American states, towards some kind of Euro-Atlantic community? One reason that might favour such an

evolution is that economic stability and prosperity require strong central state authority or a credible and effective military alliance such as NATO under US leadership.

On the other hand, a closer US-EU alliance may not be the only alternative; relations with Russia and the Muslim world are also crucial and will become increasingly important. Moreover, the USA does not share the European view of building an economic system which as a result of solidarity and cohesion has no losers (a win-win model) and which features a commitment to peace. On both accounts, the EU differs significantly from the USA, and this is unlikely to change over the next fifty years or so.

Finally, in the light of the current stagnation and the absence of any significant breakthrough, are the centrifugal forces not greater than the centripetal forces? If this is true, then the question is whether it is sufficient to defend the *acquis* as a whole. If not, then does it follow that the EU requires a grand vision or project?

However, one set of arguments against this exercise of reflecting on different scenarios is the unpredictability of certain political events that change the course of history. For example, the Venetian Republic in 1780 or Argentina in 1914 seemed islands of wealth and prosperity, yet very quickly they both entered periods of decline and failed to recover their earlier status. Moreover, the discussion on future scenarios failed to mention many indices and factors, from pre-natal care to human and social capital. Some participants therefore concluded that the future of the EU will not be a question of a clash of values but one of dynamism. Only a protracted sclerosis will prevent the EU from progressing.

Following the debates on challenges and scenarios, the conference then moved on to a discussion of three different trajectories for the EU in the near future: the *status quo*, the case for more integration and the case for less integration.

II. The case for and against the *status quo*

Many participants spoke out against the *status quo*. Beyond the well-known problems like institutional deadlock and political paralysis, the conference focused on other, more fundamental structural factors. As an ongoing enterprise which is building institutions and devising policies, the EU requires political stability. But as a result of enlarging and incessant change, the EU is lacking stability and continuity. The original objective of deepening and enlarging does not seem to hold any longer. Far from offering a solution to this crisis, the Constitutional Treaty was in large part a response to French and German domestic politics – a German demand for more federalism in exchange for a French demand for more political control over economic integration and globalisation.

Likewise, in terms of foreign policy, the EU does not need adventurous experiments but instead a steady course of action. Some participants called for the consolidation of the Euro-Atlantic framework with the USA because it remains the single highest strategic good for the EU. At the same time, this commitment should not detract European leaders from the wider implications of EU and NATO enlargement: expanding to Central and Eastern Europe was

portrayed as the best way to secure Russia's Western flank, but since then it has largely contributed to provoke Moscow (in particular NATO's expansion to former Soviet republics).

What is more, European and Western policy is once more fraught with contradiction and hypocrisy: the EU and NATO conduct a policy of enlargement and integration, yet at the same time they support the process of disintegration among European neighbours, starting in Yugoslavia and then in the post-Soviet Russophone zone of influence (Gorbachev is not alone when he reaffirms, as he recently did, that he thought Yeltsin had committed treason by letting Belarus and Ukraine go free).

Russia's current geopolitical weakness may not hold in 15 or 20 years. Coupled with the looming rebuttal of Turkey's accession ambitions, the EU is not creating an arch of stability from Morocco to Minsk but instead helping to foment a growing feeling of resentment and antagonism among the rejected and the disgruntled, above all Russia and Turkey. In order to avoid a growing rift with its neighbours, one participant suggested that the EU abandon the hitherto dominant Carolingian vision of Europe in favour of a proper Constantinian union which, like its Roman precursor, stretches from the British isles to Constantinople.

However, there were also voices in support of the *status quo*. Four arguments were offered in favour of the current configuration. First, both in national capitals and in Brussels, pessimism seems to wield supreme sway, but all the sceptics, both old and new, have got the wrong end of the telescope: an excessive emphasis on institutional reform blinds them to the real progress on the ground, not only the Euro and some aspects related to the common foreign and security policy, but also the very operation of the EU at home and abroad – the EU remains a model which is envied across the Union and elsewhere in the world. Closely related to this is the argument that the EU is not nearly as centralised and bureaucratic as it is commonly alleged. Nor are the Eurocrats in charge, but instead national diplomats and their political masters. As one participant put it poignantly, 'the idea of Brussels as a centralised force run by Eurocrats is delusional – Brussels is not a conspiracy, but a cock-up'.

Second, of course the EU is beset by structural problems such as the current demographic evolution which puts an upper ceiling on Europe's growth potential (by reducing the active population and thus the potential labour force) and a sense of insecurity, internally and externally. But in many ways the EU has a structural advantage over virtually all other global actors in that the global economy is not a zero-sum game and the growing wealth of other parts does not diminish that of EU countries – the EU's win-win system can ensure mutual prosperity whilst avoiding a race to the bottom.

Third, thus far the mark of the European integration and enlargement process has been to take politics out of the decision-making process, so there is a strong case *not* to bring politics in through the back door by adopting a so-called mini-treaty which amounts to a constitutional settlement without popular consent.

Fourth, radical change never happens and therefore the EU is both unwilling and incapable of breaking out of the current cycle and embracing a new political project. By default, the *status quo* is likely to prevail for the foreseeable future.

III. The case for more integration

The discussions on the case for more integration revolved around a proposal by Robert Mundell. This proposal was put forward in two distinct yet related stages. First, the adoption of the US model by the EU and, second, the creation of 'The Commonwealth of Europe'.

A. The US federal model for the EU?

The first idea centred upon two fundamental changes: turning the European Commission into a supranational executive and strengthening the legislative by introducing three senators per member-states and creating an EU Senate. According to this scheme, the Council of Ministers would no longer have any executive function, and the degree and extent of integration would depend on how many competencies would be transferred from the national constituencies to the federal level.

Some participants agreed with the underlying principle of this first proposal and argued that there is nothing wrong with the US model and that Europeans tend to envy it. But they also voiced concerns that cultural differences and divergent national political systems would render such an initiative practically impossible. More importantly, the very idea of a European federation presupposes what one participant called 'a political culture of consent' − that is, 'a culture marked by a willing suspension of disbelief, a culture in which cynicism about the law-making process is kept in abeyance by a kind of confidence in the law which springs from a conviction that the law can be changed if it does not adequately represent popular will'. One prerequisite for a US-type federal model in Europe is to create and sustain such a culture of consent.

Others disagreed with the main idea of adopting the US system, arguing that this would amount to importing federalism through the backdoor. Yet others criticised a number of characteristics of the US system: short-termism (long electoral campaigns and long periods of transition from old to new administrations) and thus little scope to address long-term structural problems; a concentration of executive power in the hands of the President with few, if any, real limits (including judiciary and legislative power, as evinced by the dubious election of George W. Bush and the unprecedented suspension of *habeas corpus*, thus elevating presidential judgement above constitutional norms); a presidential system that hampers the role of parliament (in virtually all EU countries, the US mid-term election results would have led to a change of government). Beyond these criticisms, some participants pointed to a number of fundamental problems in relation to culture and history. In addition to slavery, racism and the American civil war, there are many other factors that divide Europe from the USA, including the nature and role of the state, the operation of the social model and the commercialisation of culture, as well as the obsolete electoral college which removes presidential elections from the electorate.

A final set of objections related to the transition from the existing model to a fully-fledged federal EU. Currently, the EU is a political system *sui generis* which is characterised by hybridity. In consequence, there are major legal and political obstacles. First, in terms of international law, the EU is not a sovereign state, but merely an international organisation. As a result, the EU cannot simply take the place of France and the UK in the United Nations

Security Council. Such a move would require a wholesale legal change, including the (unlikely) consent of the UN General Assembly and that of the other permanent members of the Security Council. Nor can the Union hope to substitute itself for the British and French final authority over the use of nuclear weapons: who in the EU would be the commander-in-chief? Even if there was an elected President, what if the President is not elected by, say, France or the UK? How stable would such a system be? Furthermore, would big member-states accept being represented by the same number of senators as small member-states?

Second, the transition to a federal system is fraught with difficulties. Thus far the European integration process has tended to be a one-way street, steadily leading to greater cooperation on a larger scale. Yet at the same time, the Brussels experience is sobering, as the EU takes a long time to absorb changes like eastern enlargement and to reflect on possible options. In large part, this explains why there is a significant time lag between political agreement and policy implementation. Moreover, given the incremental nature of change at the EU level, might it not be preferable to adjust and improve the current system before leaping forward to a federal model? Are there not perhaps some benefits from an inchoate system which includes a number of neutral countries?

Robert Mundell responded to these objections by arguing that similar criticism also applies to European models. No form of government is perfect, but the US system has a number of definitive advantages, including the separation of powers and limits on the executive by the Senate and the judiciary. He also said that the American civil war was better than to perpetuate slavery and that US presidential elections are far more exciting precisely because of the Electoral College and the state-by-state results that grip the entire nation.

B. A 'Commonwealth of Europe'?

In the light of the discussion surrounding the first proposal, the second proposal was more detailed. Entitled 'The Commonwealth of Europe', it developed the first proposal in number of significant ways. First, the European Commission would constitute the executive, the Council of Ministers would be transformed into a Senate, the European Parliament would become the legislature and the national electorates would form the European Electoral College.

Second, the EU's President and Vice-President would be elected directly by the nations, and national votes in the European Electoral College would be proportionate to the population size. A majority of votes in one nation would take all the votes in the Electoral College. If the election were tied, there would be a second round between the winner and the runner-up of the first round.

Third, the Assembly or Lower House would consist of 500 members distributed by populations, approximately one per 1 million citizens. Senators representing the nations would constitute the Senate or Upper House. There could be five levels of population: accordingly, Germany would have 10 Senators; France and the UK 8, etc., and there would be a total number of about 122 Senators. The mode of electing senators could either be by direct vote or via national parliaments. Compared with the Assembly, the Senate would have

different competencies, perhaps reserve functions and the approval of the judiciary and of international treaties.

Finally, the powers delegated to the executive could include customs union, immigration, human rights, deficit/debt levels (monetary union), the environment, security and defence policy as well as foreign policy. Rather than precipitating change, the EU could define two or three different levels of integration: like the move from the customs to the monetary union, different member-states could commit to further integration in separate stages, perhaps creating a tax union at some point in the future.

The debate on this proposal centred on two issues – the operation of a federal system and the principle of creating a federal Europe. On the former issue, it was argued by some participants that the nature and role of the Senate holds the key to a successful or unsuccessful European federation. How would it be best elected or appointed? According to the US model or the German model of the *Bundestag*? What might be its role in connection with the Assembly? And what special competencies should it be given (e.g. impeachment of the President)? At the risk of re-igniting the '80-year war', one participant remarked that most Communist countries were multinational and that the Senate could be a house of nations, whereas a fully elected body may undermine the sense of unity – indeed, democratisation made nationalist politics worse.

In addition to the Senate, the powers of President are unclear. How would the EU President compare with the *domaine réservé* of the French President? Would the EU President be granted special presidential prerogatives and, if so, which ones? The voting system for designating the President also raises questions: would all member-states have to adopt Proportional Representation (PR) and vote on the same day? This question has important implications for the issue of legitimacy. Ultimately, the place of the national governments in the central federal system is the key question for the feasibility of such a model. Small states are not sufficiently represented in a federal system because they will be stripped of their national veto power and thus they are unlikely to agree. A federal model that eliminates the role of nation-states will prevent effective and legitimate decision-making. Not least because both the Commission and the Council of Ministers exert legislative and executive functions, it seems difficult to escape from the hybridity of the current set-up.

This led to the second issue – the principle of creating a federal Europe. In relation to the issue of the *domaine réservé*, where would be the upper limits of a transfer of competencies and powers to the EU President and the European executive? Would not the technocratic bias of EU policy-making produce a shift from the disillusion with government by politicians to the utopia of a '*gouvernement des choses*' – a political dispensation by soulless technocrats, perhaps foreshadowing a dystopia of centralised control by computers and their masters?

Another set of objections related to the question as to whether federalism is the end point or a process. Do we not need an *a priori* agreement on creating a federal state? Do we not need European political parties to represent popular will? More fundamentally, the EU is not a subject of international law, but rather an object: would the federal system exist side by side with the existing countries or would it subsume national constitutions? Some participants therefore argued that the EU has reached a critical constitutional moment but that the risk is to draw the wrong conclusions: instead of going for a fully-fledged constitutional arrangement,

what is required is a 'constitutionalising process' that can produce the necessary 'political culture of consent'.

Robert Mundell responded to these objections by arguing that, if necessary, the law adjusts itself to a new political reality. The creation of a host of new small states in the wake of the collapse of the USSR modified international relations without undermining the foundations of the international system as a whole. After all, there are many anomalies and exceptions, e.g. IMF membership of San Marino which lacks its own currency, 12 IMF members that share a single currency, i.e. the Euro, the British unwritten constitution, etc. In each case, both the law and the rules have been adapted to reflect these particularities, whilst also maintaining a single system.

More importantly, federalism is fundamentally different from a unitary state because federalism combines a single central executive with decentralisation. In fact, federalism already exists in the EU (customs union, monetary integration, etc.). In the USA, the possibility of invoking states' right puts a brake on excessive centralisation and provides a balance between the efficiency and legitimacy of policy- and decision-making. Moreover, the EU carries so much weight in the international arena that it could dominate the IMF, the G8 and other similar organisations and fora, thus giving it more clout to shape international politics and influence the global economy.

IV. The case for less integration

In the final part of the conference, the discussions turned to the case for less integration. One argument was to say that making this case is a quixotic exercise because of the practicalities involved; as a result, it may perhaps be preferable to look at what is better done at lower levels and concomitantly what is done better at higher levels.

First, foreign policy is an interesting example because of the diverse traditions within the EU and the fact that different branches of government decide on military intervention. One possible typology which emerges is that in both Britain and France, it is the executive and in Germany the legislative. These differences have already had an impact on the European mission on the Balkans and the NATO mission in Afghanistan.

Second, pan-European elections are not necessarily a panacea to the problem of legitimacy because they could reinforce rather than mitigate nationalism: in the absence of a common language and shared linguistic and political culture and traditions, anti-European forces in both East and West could exploit popular discontent to their advantage. A further democratisation could also undermine the existing EU structures and policies that are successful. Moreover, budgetary questions will complicate matters due to the different status of agriculture in different countries: if decisions were taken based on European-wide popular votes (say, against further agricultural subsidies and in favour of more expenditure on R&D), then there could be a significant backlash against the EU in certain countries (France, Spain, Italy, Poland, etc.). All in all, if some member-states are dissatisfied, then this could create contempt for the very project which pan-European elections are supposed to consolidate and reinforce.

Third, as a result of these arguments for less integration, it may be politically more viable to opt for informal inchoate structures. These can work better than rationalist logical structures (i.e. a formal constitution). Creating a sensible structure could lead to a two- or three-tiered EU. Such a configuration could either engender more confusion and a slow process of disintegration or instead it could lead to a process of constitutionalisation as an unintended consequence.[2]

The ensuing discussion focused on five aspects: the *status quo*; the *acquis communautaire*; subsidiarity and shared competencies; repatriating powers and retrenchment; specific policy areas.

On the *status quo*, it was argued by some participants that the above mentioned proposal for less integration in fact tend to support the *status quo* because it reflects the hybrid nature of the current EU model and lacks any mechanisms capable of repatriating some policies to the national level. Similarly, is there really a danger of several tiers? Such a configuration seems inevitable – several tiers are the logical outcome of enlargement, for it is unrealistic to expect all countries to participate in equal measure in the EU's policies. Moreover, even the *status quo* requires a rationalisation of structures in order to achieve better cohesion. Some concrete steps in this direction could also lead to reflections about the whole process: given that a number of member-states and interest groups are increasingly dissatisfied with the EU, what is required is a presidency of at least three years (an idea already put forward in the Solana report of 2000). Compromise, consensus and a true balance of powers might also be useful resources to be stronger as an entity without becoming a federal state.

In relation to the *acquis communautaire*, it was said that there are two traps for the EU and it risks falling into both at the same time: the utopia of envisaging a workable European federation and nostalgia about the price of such an undertaking. Thus, it behoves the Europeans to think simultaneously at more than one level. One mechanism that has worked is the *acquis communautaire*. As yet another European success story, Romania demonstrates the importance of a common body of legislation. However, there was sharp disagreement on this assessment: other participants argued that Romania has not been a success because the underlying mentality has not evolved and as a result there are many structural problems, from agriculture to the treatment of ethnic minorities. This raises serious questions about the commonality of values and practices across the enlarged Union.

Yet others said that the EU is a club based on the common rules of the *acquis communautaire* and that it is crucial to revise and to determine the rules precisely, rather than negotiating with countries and changing the criteria as the process evolves (e.g. Turkey). Moreover, the *acquis* itself is dysfunctional in a number of ways: the budget is nonsensical in that too many resources are channelled into agriculture at the expense of R&D. Structural funds should be converted into loans with subsidised interest rates. Otherwise, the EU will continue to feature cases such as Ireland which according to some measures is the second richest member-state, yet some parts still receive structural funds. At the same time, Poland is now the single biggest recipient but cannot make use of the funds because it has not provided the 50% co-

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[2] In response to this proposal, one participant quoted a French figure who had once commented: 'it may work in practice, but will it work in theory?'.

finance. The Marshall Plan was more effective and never exceeded 2% of GDP. So one concrete proposal is to review the *acquis* as a whole, to phase out structural funds and convert them into loans, while also looking at subsidiarity (at what level is it most effective to tackle pockets of poverty and to impose and enforce smoking bans, etc.?).

These reflections led to the third issue, subsidiarity and shared competencies. Some participants argued that efficiency is built into subsidiarity and that this point is crucial because the Commission does not manage to allocate more than 70% of the community budget. Moreover, the Court of Auditors has refused the discharge of the budget for the 11th consecutive year. All of which creates enormous distortions and inefficiencies. Others remarked that policies cannot currently be renationalised because of the division of competencies spelled out in the Treaties (and also the Constitution): for example, trade is an exclusive EU competence. Yet others contended that the real problem is shared competencies, e.g. environment, research, immigration, asylum. In these and other areas, decisions can be taken both at the EU level and at the regional level (in accordance with the principle of subsidiarity), thus complicating the decision-making process and making it even less intelligible to the public than exclusive EU or exclusive national channels. What this potential confusion highlights is the need to distinguish more clearly between institutions and competencies.

In turn, this problem raised the question of whether and how to repatriate powers and what such a strategy of retrenchment might look like. Three ideas were put forward. First, we need a clearer route to be able to return competencies to member-states: e.g. health and safety regulations have been used to inflate the competencies of Commission and this has created a lot of antagonism in the member-states, bringing the EU as a whole into disrepute. The Union should be more cunning and avoid ruffling feathers unnecessarily. In this respect shared competencies are particularly problematic and need to be clarified. Second, there has been a veritable escalation in the language of rights: the Charter of Rights moves beyond fundamental rights and tends to shift from justice to utility, in fact devaluing fundamental rights as a result. Eliminating this obsession would help generate popular support for the Union. Third, there is a problem of language because federalism is currently associated with ideas of a highly centralised unitarian state. Historically however, federal republics were a response to the unitarian nation-state and as such provided an alternative to the centralisation and concentration of power. Unless the discourse on a federal Europe can reflect this, any attempt to federalise the EU is likely to intensify opposition and lead to an excessive backlash against Brussels.

In relation to specific policy areas, the discussions on the case for less integration touched in particular on security, defence and foreign policy. Some participants supported the current approach of dealing with these areas on the level of intergovernmental cooperation without any exclusive supranational powers and competencies. For it is preferable to organise practical cooperation when and where there is a shared intent to act, e.g. in Macedonia, Bosnia and Kosovo: independently of actual policies, this is a good model of how to take action. With respect to internal security, it is important to combine European security with international cooperation (especially with the USA and Canada), including in conjunction with NATO. Likewise, energy policy, which is of increasing geo-strategic importance, could and should be developed along intergovernmental lines and not be delegated to the Commission or the EP. The operational flexibility and pragmatism of intergovernmental coordination are crucial for

relations with Russia and Turkey. The EU would be more united and more effective if it did not institutionalise conflicts but instead brought counter-veiling powers to bear on Russia and Turkey. Whether Solana and his successors are called High Representative or Foreign Minister does not matter; the question is about actual competencies and powers. Neither the US nor the UN would accept a new figure that replaced national foreign ministers. The EU should refrain from engaging in pseudo-initiatives.

More specifically, there was a controversy about the respective role of the Commission and certain member-states in relation to the question of energy and relations with Russia. Some argued that Poland is calling for a Community policy to prevent Russia from doing bilateral deals with individual EU member-states. There is no contradiction between protecting Poland against Russia and coming to some framework decision that can accommodate different views. Others disagreed and contended that Poland is trying to get the Commission to lean on the German government and that this is unacceptable because it elevates national over Community interests. More fundamentally, there must be participation of the Commission, but defence, security and foreign policy should not be made dependent on a Commission initiative, otherwise the EU enter a bureaucratic tango − flexibility is paramount. Such a strategy can strengthen the autonomy of the EU whilst also consolidating the Euro-Atlantic alliance. There has been a European caucus within NATO, accepted by the US; in addition, there is the notion and practice of 'concerned allies', enabling the EU to act in accordance with NATO and the US on issues such as the Dayton agreement and the Middle East Quartet.

V. Final reflections

The conference concluded with a final *tour de table*. One idea that emerged from these reflections is that within a club it is impossible to have a group that acts in such a way as to affect all members − the only way to preserve the Union and to make it more flexible is to consult before deciding and acting. Second, the Mundell model may work in 10 or 15 years, but how could the EU move towards such a process of federalisation? Third, before the EU can envisage a new project, it must confront a number of paradoxes: the powers of the EP have been extended, but voter turnout has declined; how to abandon the constitution and at the same time enhance legitimacy; the system of a two-and-a-half year Presidency is only a half-way solution because individual ministers will still chair important councils, so will there effectively be a split between the supranational and the intergovernmental level?

Participants also put forward some other proposals. One such proposal concerned the need to break the *de facto* Council dictatorship and to establish a form of 'councils of control' − regional and local structures that can give the citizen an enhanced possibility to review critically the actions which are done on behalf of the EU on the level which concerns them most. This is indeed the regional level.[3] Another proposal argued for a seven- or nine-year Presidency, without any re-election, such that the emphasis would be on governing and not campaigning. Moreover, the European Commission would be transformed into a European civil service that would advise the President and oversee the implementation of EU policies in the member-states. The national heads of government would form a cabinet headed by the

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[3] As Tip O'Neill is reported to have said: 'All politics is local – and most of it is favours'.

elected President and thus they would complement the executive. The legislative would consist of a lower house and an upper house, the latter would include not only regional but also professional representation.

Conclusion

Despite the numerous objections to Robert Mundell's proposal, there was a large consensus that such and similar proposals are interesting because they provide a concrete basis upon which to discuss the political future of the EU. Moreover, the participants agreed on two conclusions. First, it is too early to submit these findings to national decision- and policy-makers across the EU because no groundbreaking idea has as yet emerged from the discussions. Second, the debates have been extraordinarily rich and engaging and it is therefore worthwhile to continue this series of meetings. One possibility is to gather in Prague in December 2007. Robert Mundell has suggested meeting again in Santa Colomba on 4-6 July 2008.

If reality shapes law as much as law shapes reality, then it could be envisaged that a renewed and vigorous political process could give rise to a genuine constitution and the concomitant federal or confederal institutions. It is hoped that the ongoing reflections and discussion of this group will be able to make a contribution to this effect.

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LIEIS
June 2007

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Luxembourg Institute for European and International Studies

Conference

Searching for a new political dispensation
for the European Union

2-3 June 2007
Palazzo Mundell, Santa Colomba (Siena)

Programme

Saturday 2 June

09.00-10.45   *Part I: What is ahead?*

            Session 1: The key challenges for the upcoming European Union

10.45-11.15   Coffee break

11.15-13.00   *Part II: Responding to the key challenges: Different models of integration*

            Session 2: The case for preserving the *status quo*

13.00-15.00   Lunch at Palazzo Mundell

15.00-16.45   Session 3: The case for a more integrated Union

17.15-19.00   Session 4: The case for a less integrated Union

20.00   Dinner at Trattoria La Torre in Siena

Sunday 3 June

09.00-10.45   *Part III: Practical implications and consequences of the different models*

            Session 5: What model best responds to the key challenges?

10.45-11.15   Coffee break

11.15-13.00   Session 6: Implementing the ideas: Suggestions for policy-makers

13.00   Lunch at Palazzo Mundell

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